

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
	:	99cr157 (DLC)
-v-	:	
	:	<u>ORDER</u>
OSCAR MONZON,	:	
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

In November 2001, Oscar Monzon ("Monzon") was sentenced by the Honorable Robert Ward to life in prison following his conviction at trial. Monzon suffered a heart attack in May of 2015. On August 27, 2018, this Court reduced Monzon's sentence to 360 months' imprisonment pursuant to 18 U.S.C. § 3582(c)(2). Monzon is currently imprisoned in the general population at the low-security Federal Correctional Institution Allenwood. The Bureau of Prisons projects that Monzon will be released in June 2027.

On November 13, 2019, Monzon filed a motion pursuant to 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g) for a reduced sentence. The Government opposed Monzon's November 13 motion. The motion was denied because Monzon had not made a request to the warden of the facility in which he is incarcerated for relief pursuant to § 3582(c)(1)(A).

On February 18, 2020, Monzon requested that the warden of his facility bring a motion for reduced sentence on his behalf. In that petition, Monzon cited only the cardiovascular disease he described in his November 13 motion to this Court. On March 4, the warden of Monzon's facility denied Monzon's request. On April 22, Monzon again moved this Court for release pursuant to § 3582(c)(1)(A) because of his cardiovascular condition.

On April 27, attorney Alessandra DeBlasio filed an amicus letter in support of Monzon's petition. Unlike Monzon, she cited the ongoing COVID-19 pandemic as an additional ground for relief. Neither Monzon's petition to his warden nor his renewed application to the Court raises COVID-19 as a basis for reducing his sentence. The Government filed an opposition to Monzon's petition on May 6, 2020.

Monzon's petition meets the statutory exhaustion requirement of 18 U.S.C. § 3582(c)(1)(A) insofar as his petition seeks a reduction of sentence based on his preexisting cardiovascular condition. Consequently, Monzon's sentence may be reduced if, after consideration of the 18 U.S.C. § 3553(a) factors, a court finds that "extraordinary and compelling reasons" warrant such a reduction. 18 U.S.C. § 3582(c)(1)(A)(i). Pursuant to the relevant United States Sentencing Guidelines Application Note, Monzon can demonstrate that

extraordinary and compelling reasons justify relief if he has a "terminal illness" or a condition that "substantially diminishes" his ability "to provide self-care within the environment of a correctional facility." U.S.S.G. § 1B1.13, Application Note 1(A). Monzon has not shown that he meets either of those conditions.


Insofar as Monzon seeks a reduced sentence based on an increased risk of serious illness from COVID-19, his motion is denied for his failure to exhaust his administrative remedies, as required by § 3582(c)(1)(A). The Government has not waived that statutory requirement. Accordingly, it is hereby

ORDERED that the April 22, 2020 motion pursuant to § 3582(c)(1)(A) is denied. This denial is without prejudice to Monzon bringing a renewed application based on a combination of circumstances, including the COVID-19 pandemic, so long as Monzon has complied with the statutory exhaustion requirement.

IT IS FURTHER ORDERED that the Clerk of Court is directed to mail this Order to Monzon.

SO ORDERED:

Dated: New York, New York  
May 7, 2020

  
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DENISE COTE  
United States District Judge